

REMARKS

Claims 14-41 are pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are in allowable condition.

Claims 14-22, 26-27, 37, 39 and 41 have been rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kennedy (US Patent Number 5,734,981) and Tomcik (US Patent Number 6,317,607). Claims 23-25 and 28-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik and Oka (U.S. Patent No. 6,091,945). Claims 31, 33-36, 38 and 40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik and Kolls (U.S. Patent No. 6,856,820 B1). Claim 32 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik, Oka and Kolls. Applicants respectfully submit that these rejections should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091 (Fed. Cir. 1986). Third, the prior art references must teach or suggest all of the claimed limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Independent claims 14-16 and 37-41 recite, *inter alia*, the feature of checking, by a terminal, on the basis of data delivered by a call, whether the call is at least one of (a) intended to initiate a connection to a control center or (b) authorized to initiate a connection with the control center. Independent claims 14-16 and 37-41 also recite, *inter alia*, the feature that the terminal terminates a call without accepting the call. Although the Examiner cites Tomcik (abstract, and col. 2, l. 54 – col. 3, l. 10) as teaching the features of “checking . . . whether a connection to the control center is permitted to be established,” Tomcik clearly does not teach or

suggest the above-recited features of claims 14-16 and 37-41, and none of the remaining applied references (Kennedy, Oka and Kolls) discloses or suggests these features.

The Examiner asserts that the use of page messages in Tomcik discloses intending to initiate a connection to a control center. However, the page message does not indicate an intent to connect to a **control center**. Rather, the page message is only used by a mobile device to determine whether or not an incoming call from *another mobile device* matches selected communication modes (voice and data modes). If there is a match, the call is accepted; if there is not a match, the call is rejected. *See* Abstract and column 8, lines 47 to 52. It is the other device's attempt to engage the mobile device in communications which is conveyed by the page message, which is unrelated to any interaction whatsoever with a control center as provided in claim 14.

The Examiner also asserts that Kennedy's use of call back messages also discloses an intent to connect to a control center. Applicants note that the call back messages are not intended to create a separate connection to another device, let alone to a control center. The call back messages are transmitted by a platform 18 to a mobile unit 22 when a caller 36 calls the mobile unit 22. If the mobile unit 22 decides to call the platform 18, the call from the caller 36 and the call from the mobile unit 22 are coupled to complete call delivery. *See* column 8, lines 22 to 32. Thus, the call back message and the call produced by the mobile unit 22 in response to the call back message are actually part of the same call, rather than a connection separate from the call itself as provided for in claim 14.

In addition, while the Examiner concedes that Kennedy does not teach or suggest terminating a call without accepting the call, the Examiner attempts to cure this by combining the teachings of Tomcik. Applicants respectfully submit that the combination of Kennedy and Tomcik is clearly improper because Tomcik describes rejecting calls when a communication mode thereof has not been selected. When this occurs, no further connection of any kind is made. Once a call is rejected, no further communication occurs with respect to the rejected call. In contrast, claim 14 provides that, in addition to terminating the call without accepting the call, a connection is made to the control center in response to the call. The Examiner has not provided any reasonable explanation of why it would be obvious to reject a call as taught by Tomcik in combination with coupling calls to complete call delivery as taught by Kennedy, particularly when it is apparent that the cited teachings of Tomcik and Kennedy are clearly incompatible with

each other. In this regard, the Supreme Court has clearly indicated that it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id., at 1396. Applicants note that the Examiner’s explanations in support of the combination of Kennedy and Tomcik simply do not satisfy the level of reasoning required by the Supreme Court.

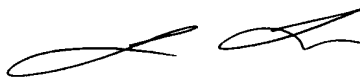
For at least the foregoing reasons, independent claims 14-16 and 37, 39 and 41 are not rendered obvious by the combination of Kennedy and Tomcik. In addition, with respect to independent claims 38 and 40, the additional secondary reference Kolls clearly fails to remedy the deficiencies of Kennedy and Tomcik, and therefore claims 38 and 40 are not rendered obvious by the applied combinations of Kennedy, Tomcik and Kolls. Furthermore, the additional secondary reference Oka (which was applied in combination with other applied references against dependent claims 23-25, 28-30 and 32) clearly does not remedy the deficiencies of Kennedy, Tomcik and Kolls as applied against independent claims 14-16 and 37-41. Accordingly, independent claims 14-16 and 37-41, as well as their dependent claims 17-36, are allowable over the applied combination of Kennedy, Tomcik, Oka and Kolls. Withdrawal of the obviousness rejections is respectfully requested.

CONCLUSION

In light of the foregoing, Applicants respectfully request allowance of all pending claims. Prompt reconsideration of the present application is earnestly solicited.

Respectfully Submitted,

KENYON & KENYON LLP

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By: SONG LEE for Gerard Messina
Gerard A. Messina
(Reg. No. 35,952)

One Broadway
New York, NY 10004
(212) 425-7200